

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NIKOLAI TANKOVICH, MD, PhD,

Plaintiff,

v.

CANDELA CORPORATION,

Defendant.

C.A. No. 1:22-cv-01458-RGA

JURY TRIAL DEMANDED

JOINT CLAIM CONSTRUCTION CHART

Pursuant to Paragraph 7 of the Court's Scheduling Order (D.I. 21), Plaintiff Nikolai Tankovich, MD, PhD, and Defendant Candela Corporation provide this Joint Claim Construction Chart regarding U.S. Patent No. 10,675,481 ("the '481 Patent"). The chart below sets forth the claim terms and phrases currently at issue, and each party's proposed construction of the disputed claim language with citations to the intrinsic evidence in support. Attached for reference hereto is a copy of the '481 Patent (Exhibit 1) and portions of the file history relied upon by Plaintiff and Defendant identified below (Exhibit 2).

The parties reserve the right to rely on additional intrinsic evidence to the extent it is necessary to provide additional context or to rebut arguments made by other parties during the claim construction briefing. The parties further reserve the right to rely on any intrinsic evidence identified by any other party. The parties also reserve their rights to rely on extrinsic evidence.

U.S. Patent No. 10,675,481			
#	Term or Phrase (Claim no.)	Plaintiff's Proposed Construction and Intrinsic Evidence in Support	Defendant's Proposed Construction and Intrinsic Evidence in Support
1	"[first pattern and ... second pattern] combine [to produce...beams]" (Claim 1)	<u>Proposed Construction:</u> Not indefinite; no construction required (plain and ordinary meaning). <u>Additional claim language</u>	<u>Proposed Construction:</u> Indefinite The claim language is indefinite regardless of whether additional

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#	Term or Phrase (Claim no.)	Plaintiff's Proposed Construction and Intrinsic Evidence in Support	Defendant's Proposed Construction and Intrinsic Evidence in Support
		<p>should be included for context as shown in brackets.</p> <p><u>Intrinsic Evidence:</u> '481 Patent: Abstract; Figs. 1, 2A, 2B, 2C, 2D, 2E, and 2F; 1:12–57; 1:61–2:19; 2:23–45; 2:55–3:16; 3:54–67; 4:28–5:9; 5:13–7:20; 8:14–43; 8:51–9:46; 9:49–54; 9:61–10:2; 10:8–13; claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, and 26;</p> <p>File History: Nov. 18, 2019 Office Action (NIT000092-102); Mar. 25, 2020 Amendment and Response to Non-Final Office Action of 11/18/2019 (NIT000129-38); Mar. 27, 2020 Interview Summary (NIT000139-42).</p>	<p>claim language shown in brackets is included</p> <p><u>Intrinsic Evidence:</u> FIGS. 1, 2A, 2B, 2C, 2E, 2F; Abstract; 1:12–57; 1:61–63; 1:67–2:19; 2:25–45; 3:59–62; 3:66–67; 4:28–53; 4:58–5:1; 5:5–9; 5:17–21; 5:32–6:19; 6:34–7:20; 8:14–43; 8:51–9:3; 9:28–42; 9:61–10:2 claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26; Original Claims; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p>
2	“ first laser scanner ” (Claim 1)	<p><u>Proposed Construction:</u> No construction required (plain and ordinary meaning).</p> <p><u>Intrinsic Evidence:</u> Figs. 1, 2A, 2B, 2C; 2:23–33; 2:55–3:1; 4:50–5:54; 5:62–6:3; 6:34–38; 6:60–64; 9:49–54; 10:23–34; claim 1.</p>	<p><u>Proposed Construction:</u> A laser scanner, distinct from the second laser scanner</p> <p><u>Intrinsic Evidence:</u> FIG. 1; 4:50–5:54; 5:62–6:3; 6:34–38; 6:60–63; claim 1.</p>
3	“[distribute a beam in a] first pattern ” (Claim 1)	<p><u>Proposed Construction:</u> Not indefinite; no construction required (plain and ordinary meaning).</p> <p>Additional claim language should be included for context as shown in brackets.</p>	<p><u>Proposed Construction:</u> Indefinite</p> <p>The claim language is indefinite regardless of whether additional claim language shown in brackets is included</p>

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		<p><u>Intrinsic Evidence:</u> '481 Patent Abstract; 2:23–45; 2:55–3:16; 3:20–50; 4:50–6:3; 6:34–38; 8:14–24; 8:51–61; 9:28–63; claims 1 and 11; Figs. 1, 2A, 2B, 2C, 2D, 2E, and 2F;</p> <p>File History: Nov. 18, 2019 Office Action (NIT000092-102); Mar. 25, 2020 Amendment and Response to Non-Final Office Action of 11/18/2019 (NIT000129-38); Mar. 27, 2020 Interview Summary (NIT000139-42).</p>	<p><u>Intrinsic Evidence:</u> FIGS. 2A, 2B, 2C, 2D, 2E, 2F; Abstract; 4:50–5:12; 5:28–6:3; 6:34–38; 6:60–63; 8:14–24; 8:51–61; 9:28–63; claims 1, 11; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p>
4	“non-overlapping beams” (Claim 1)	<p><u>Proposed Construction:</u> Not indefinite; no construction required (plain and ordinary meaning).</p> <p><u>Intrinsic Evidence:</u> '481 Patent: Abstract; Figs. 1, 2A, 2B, 2C, 2D, 2E, and 2F; 1:12–57; 1:61–2:19; 2:23–45; 2:55–3:16; 3:54–67; 4:28–5:9; 5:13–7:20; 8:14–43; 8:51–9:46; 9:49–54; 9:61–10:2; 10:8–13; claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, and 26;</p> <p>File History: Nov. 18, 2019 Office Action (NIT000092-102); Mar. 25, 2020 Amendment and Response to Non-Final Office Action of 11/18/2019 (NIT000129-38); Mar. 27, 2020 Interview Summary (NIT000139-42).</p>	<p><u>Proposed Construction:</u> Indefinite</p> <p><u>Intrinsic Evidence:</u> FIGS. 1, 2A, 2B, 2C, 2E, 2F; Abstract; 1:12–57; 1:61–63; 1:67–2:19; 2:25–45; 3:59–62; 3:66–67; 4:28–53; 4:58–5:1; 5:5–9; 5:17–21; 5:32–6:19; 6:34–7:20; 8:14–43; 8:51–9:3; 9:28–42; 9:61–10:2 claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26; Original Claims; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p>

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#	Term or Phrase (Claim no.)	Plaintiff's Proposed Construction and Intrinsic Evidence in Support	Defendant's Proposed Construction and Intrinsic Evidence in Support
5	“overlapping beams and non-overlapping beams” (Claim 1)	<p><u>Proposed Construction:</u> Not indefinite; no construction required (plain and ordinary meaning).</p> <p><u>Intrinsic Evidence:</u> '481 Patent: Abstract; Figs. 1, 2A, 2B, 2C, 2D, 2E, and 2F; 1:12–57; 1:61–2:19; 2:23–45; 2:55–3:16; 3:54–67; 4:28–5:9; 5:13–7:20; 8:14–43; 8:51–9:46; 9:49–54; 9:61–10:2; 10:8–13; claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26; Original Claims; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p> <p>File History: Nov. 18, 2019 Office Action (NIT000092-102); Mar. 25, 2020 Amendment and Response to Non-Final Office Action of 11/18/2019 (NIT000129-38); Mar. 27, 2020 Interview Summary (NIT000139-42).</p>	<p><u>Proposed Construction:</u> Indefinite</p> <p><u>Intrinsic Evidence:</u> FIGS. 1, 2A, 2B, 2C, 2E, 2F; Abstract; 1:12–57; 1:61–63; 1:67–2:19; 2:25–45; 3:59–62; 3:66–67; 4:28–53; 4:58–5:1; 5:5–9; 5:17–21; 5:32–6:19; 6:34–7:20; 8:14–43; 8:51–9:3; 9:28–42; 9:61–10:2 claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26; Original Claims; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p>
6	“overlapping beams” (Claim 1)	<p><u>Proposed Construction:</u> Not indefinite; no construction required (plain and ordinary meaning).</p> <p><u>Intrinsic Evidence:</u> '481 Patent: Abstract; Figs. 1, 2A, 2B, 2C, 2D, 2E, and 2F; 1:12–57; 1:61–2:19; 2:23–45; 2:55–3:16; 3:54–67; 4:28–5:9; 5:13–7:20; 8:14–43; 8:51–9:46; 9:49–54; 9:61–10:2; 10:8–13; claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26; Original Claims; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p> <p>File History: Nov. 18, 2019 Office Action (NIT000092-</p>	<p><u>Proposed Construction:</u> Indefinite.</p> <p><u>Intrinsic Evidence:</u> FIGS. 1, 2A, 2B, 2C, 2E, 2F; Abstract; 1:12–57; 1:61–63; 1:67–2:19; 2:25–45; 3:59–62; 3:66–67; 4:28–53; 4:58–5:1; 5:5–9; 5:17–21; 5:32–6:19; 6:34–7:20; 8:14–43; 8:51–9:3; 9:28–42; 9:61–10:2 claims 1, 2, 3, 5, 7, 8, 11, 12, 13, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26; Original Claims; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.</p>

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		102); Mar. 25, 2020 Amendment and Response to Non-Final Office Action of 11/18/2019 (NIT000129-38); Mar. 27, 2020 Interview Summary (NIT000139-42).	
7	“second laser scanner” (Claim 1)	<u>Proposed Construction:</u> No construction required (plain and ordinary meaning). <u>Intrinsic Evidence:</u> Figs. 1, 2A, 2B, 2C; 2:23–33; 2:55–3:1; 4:50–5:54; 5:62–6:3; 6:34–38; 6:60–64; 9:49–54; 10:23–34; claim 1.	<u>Proposed Construction:</u> A laser scanner, distinct from the first laser scanner <u>Intrinsic Evidence:</u> FIG. 1; 4:50–5:54; 5:62–6:3; 6:34–38; 6:60–63; claim 1.
8	“[distribute a beam in a] second pattern” (Claim 1)	<u>Proposed Construction:</u> Not indefinite; no construction required (plain and ordinary meaning). Additional claim language should be included for context as shown in brackets. <u>Intrinsic Evidence:</u> '481 Patent Abstract; 2:23–45; 2:55–3:16; 3:20–50; 4:50–6:3; 6:34–38; 8:51–61; 9:28–63; claims 1 and 11; Figs. 1, 2A, 2B, 2C, 2D, 2E, and 2F; <u>File History:</u> Nov. 18, 2019 Office Action (NIT000092-102); Mar. 25, 2020 Amendment and Response to Non-Final Office Action of 11/18/2019 (NIT000129-38); Mar. 27, 2020 Interview Summary (NIT000139-42).	<u>Proposed Construction:</u> Indefinite The claim language is indefinite regardless of whether additional claim language shown in brackets is included <u>Intrinsic Evidence:</u> FIGS. 2A, 2B, 2C, 2D, 2E, 2F; Abstract; 4:50–5:12; 5:28–6:3; 6:34–38; 6:60–63; 8:14–24; 8:51–61; 9:28–63; claims 1, 11; Nov. 18, 2019 Office Action; Mar. 25, 2020 Amendment and Response to Non-Final Office Action; Mar. 27, 2020 Interview Summary.

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